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ALLIANCES IN MEXICO
AND SRI LANKA

DANA B. KLINGES
DIRECT DIAL: +1 215 979 1143
PERSONAL FAX: +1 215 405 2632
E-MAIL: dklinges@duanemorris.com

www.duanemorris.com

May 8, 2019

VIA ECF AND FACSIMILE (215-580-2141)

The Honorable Jan E. DuBois
United States District Court for the Eastern
District of Pennsylvania
James A. Byrne U.S. Courthouse
601 Market Street
Room 12613
Philadelphia, PA 19106

Re: **Moore v. Rite Aid Hdqtrs. Corp. d/b/a/ Rite Aid Corporation, No. 13-CV-01515**

Dear Judge DuBois:

This firm represents Defendant Rite Aid Hdqtrs. Corp. d/b/a/ Rite Aid Corporation (“Rite Aid”) in the above litigation. This letter is in response to this Court’s Order entered on April 25, 2019 directing the parties to file and serve a report covering the details of the disposition of the case. Plaintiff’s counsel has approved the content of this report.

You will recall that on December 20, 2017, this Court granted Defendant’s Motion to Dismiss under Fed. R. Civ. P. 12(b)(1) or, in the alternative, for Summary Judgment and dismissed with prejudice Plaintiff’s claims in Count I of the Amended Complaint. The December 20, 2017 Order, however, did not resolve Count II of the Amended Complaint. On February 16, 2018, after a telephone conference with the Court, Plaintiff and Defendant stipulated to the dismissal of Count II with prejudice, with each party bearing its own costs, and stipulated to the entry of final judgment. Also on February 16, 2018, this Court dismissed the action with prejudice as to all claims of Plaintiff Kyra Moore and entered final judgment in favor of Defendant Rite Aid. Plaintiff then filed a notice of appeal of this Court’s December 20, 2017 Order.

DUANE MORRIS LLP

30 SOUTH 17TH STREET PHILADELPHIA, PA 19103-4196

PHONE: +1 215 979 1000 FAX: +1 215 979 1020

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The Honorable Jan E. DuBois
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After the appeal was fully briefed and after receiving notice that no oral argument would be scheduled for the appeal, on April 2, 2019, counsel for Ms. Moore proposed the dismissal of the appeal with an agreement that each party would bear responsibility for its own costs. While both sides had confidence in their respective appellate positions, they also agreed that continuation of the appeal under these circumstances would result in unnecessary additional time and expense for the parties and the court. Accordingly, Defendant agreed to waive its right to seek the recovery of costs, with each side paying its own costs, in exchange for a dismissal with prejudice.

The stipulation of dismissal in the United States Court of Appeals for the Third Circuit reflects this agreement. For the Court's convenience, I enclose a filed copy of that stipulation. The mandate of the United States Court of Appeals for the Third Circuit dismissing the appeal makes final and not subject to further appeal or litigation this Court's judgment in favor of Defendant Rite Aid.

Should Your Honor have any questions, we will make ourselves available at the Court's convenience.

Respectfully,



Dana B. Klings

DBK/dmg
Enclosure

cc: James A. Francis, Esquire
Irv Ackelsberg, Esquire

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Kyra Moore,
on behalf of herself and
all others similarly situated,

Plaintiff – Appellant,

v.

No. 18-1551

Rite Aid Hdqtrs Corp,

Defendant – Appellee.

**STIPULATION OF DISMISSAL
PURSUANT TO FED. R. APP. P. 42(B)**

On this twelfth day of April, 2019, it is hereby stipulated and agreed by and between the parties that the Appellant wishes to withdraw and dismiss the above-captioned appeal, and the Appellee consents to the dismissal, provided the dismissal is with prejudice. Accordingly, it is stipulated that this matter should be **DISMISSED** pursuant to Fed. R. App. P. 42(b) with prejudice and without costs to be taxed against any party.

/s/ Irv Ackelsberg

Irv Ackelsberg
LANGER GROGAN & DIVER, P.C.
1717 Arch Street, Ste. 4020
Philadelphia, PA 19103

Counsel for Appellant

/s/ Dana B. Klings

Dana B. Klings, Esq.
DUANE MORRIS
30 South 17th Street
Philadelphia, PA 19103

Counsel for Appellee